

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>LYNNE H. WASHBURN,</b>	:	<b>CIVIL ACTION NO. 1:15-CV-674</b>
	:	
<b>Plaintiff</b>	:	<b>(Chief Judge Conner)</b>
	:	
<b>v.</b>	:	
	:	
<b>CAROLYN W. COLVIN, Acting</b>	:	
<b>Commissioner of Social Security,</b>	:	
	:	
<b>Defendant</b>	:	

**ORDER**

AND NOW, this 19th day of October, 2016, upon consideration of the report (Doc. 18) of Magistrate Judge Gerald B. Cohn, recommending that the court vacate the decision of the administrative law judge denying the application of plaintiff Lynne H. Washburn (“Washburn”) for a period of disability, disability insurance benefits, and supplemental security income, and remand the above-captioned matter for further proceedings and development of the record, wherein Judge Cohn opines that the administrative law judge’s decision is not “supported by substantial evidence,” 42 U.S.C. § 405(g), and finds specifically that the administrative law judge erred in omitting a treating source medical opinion, (Doc. 18 at 14-17), and further erred in discounting a treating source medical opinion in favor of two non-treating, non-examining medical sources, neither of whom reviewed a complete medical record, (*id.* at 18-43), and it appearing that neither Washburn nor the Commissioner of Social Security (“Commissioner”) objects to the report, *see* FED. R. Civ. P. 72(b)(2), and that the Commissioner expressly waived the opportunity to do so, (*see* Doc. 19), and the court noting that failure to timely object to a magistrate

judge's conclusions "may result in forfeiture of *de novo* review at the district court level," Nara v. Frank, 488 F.3d 187, 194 (3d Cir. 2007) (citing Henderson v. Carlson, 812 F.2d 874, 878-79 (3d Cir. 1987)), but that, as a matter of good practice, a district court should "afford some level of review to dispositive legal issues raised by the report," Henderson, 812 F.2d at 878; see also Taylor v. Comm'r of Soc. Sec., 83 F. Supp. 3d 625, 626 (M.D. Pa. 2015) (citing Univac Dental Co. v. Dentsply Int'l, Inc., 702 F. Supp. 2d 465, 469 (M.D. Pa. 2010)), in order to "satisfy itself that there is no clear error on the face of the record," FED. R. CIV. P. 72(b), advisory committee notes, and, following an independent review of the record, the court in agreement with Judge Cohn's recommendation, and concluding that there is no clear error on the face of the record, it is hereby ORDERED that:

1. The report (Doc. 18) of Magistrate Judge Cohn is ADOPTED.
2. The Clerk of Court shall enter judgment in favor of Washburn and against the Commissioner as set forth in the following paragraph.
3. The Commissioner's decision denying Washburn's application for a period of disability, disability insurance benefits, and supplemental security income is VACATED. This matter is REMANDED to the Commissioner with instructions to conduct a new administrative hearing, develop the record fully, and evaluate the evidence appropriately in accordance with this order and the report (Doc. 18) of Magistrate Judge Cohn.
4. The Clerk of Court is directed to CLOSE this case.

/S/ CHRISTOPHER C. CONNER

Christopher C. Conner, Chief Judge  
United States District Court  
Middle District of Pennsylvania